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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

12 **19STCV29723**

13 JANE DOE 13,

14 Plaintiff,

15 vs.

16 THE REGENTS OF THE UNIVERSITY
17 OF CALIFORNIA, a California
government corporation, JAMES HEAPS,
18 M.D., an individual; and ROES 1 through
20, inclusive,

19 Defendants.

20 **COMPLAINT FOR:**

- (1) Violations of Unruh Act (Civil Code § 51)
- (2) Violations of Bane Act (Civil Code § 52.1)
- (3) Violations of Personal Rights (Civil Code § 51.9)
- (4) Battery
- (5) Sexual Battery
- (6) Intentional Infliction of Emotional Distress
- (7) Negligent Infliction of Emotional Distress
- (8) Negligent Supervision and Retention
- (9) Negligent Ratification
- (10) Negligent Failure to Warn, Train, or Educate
- (11) Negligence
- (12) Gender Violence (Civil Code § 52.4)
- (13) Unfair Business Practices (Business & Professions Code § 17200)
- (14) Constructive Fraud

21 **DEMAND FOR JURY TRIAL**

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1 Plaintiff Jane Doe 13,¹ an individual (“Plaintiff Doe 13” or “Plaintiff” or “Doe 13”)
2 hereby complains against Defendants Regents of the University of California (“UC Regents”),
3 a California government corporation, Dr. James Heaps (“Dr. Heaps”), an individual, and Roes
4 1 through 20 and alleges as follows:

5 **GENERAL ALLEGATIONS**

6 1. This case involves an egregious breach of trust and medical ethics by
7 Defendants. Plaintiff Doe 13 was a gynecological patient at UCLA Health (“UCLA Health”
8 or “UCLA”) when she was sexually abused, molested and harassed at the hands of serial
9 sexual predator Defendant Dr. Heaps.

10 2. Dr. Heaps’ conduct was a gross violation of the trust between physician and
11 patient. This is especially true as a gynecological patient is, of course, at her most vulnerable
12 during examination of her intimate body parts and should be able to trust that she will be
13 treated at all times with dignity and in a nonsexual and medically appropriate manner.

14 3. Plaintiff Doe 13 is a breast cancer survivor who endured a mastectomy,
15 reconstructive surgery, four additional breast surgeries and extensive chemotherapy. Fearful
16 about the possible recurrence of her breast cancer – and of her risk of ovarian cancer —she
17 sought care from Dr. Heaps between 2007 and 2016 because of his expertise in oncology and
18 gynecology. Plaintiff Doe 13 was referred to Dr. Heaps by her UCLA primary care physician.

19 4. During the time that she was being treated by Dr. Heaps for her post-cancer care,
20 Dr. Heaps intentionally touched Plaintiff Doe 13 during routine pelvic and transvaginal
21 ultrasound examinations in a manner which Plaintiff Doe 13 now believes was intended to
22 sexually stimulate her and gratify himself. He also touched her breasts during the course of
23 overly-lengthy breast “exams” in a way which Plaintiff Doe 13 now believes was sexual in
24 nature and not medically necessary. Dr. Heaps also made verbal comments that Plaintiff Doe
25 13 now believes were inappropriate, including “complimenting” her intimate body parts. This

27 1 Plaintiff, as a victim of sexual abuse, is identified herein using a pseudonym in order
28 to preserve her confidentiality and privacy in accordance with United States and California
law. *See, e.g., Doe v. Lincoln Unified School Dist.*, 188 Cal. App. 4th 758 (2010).

1 abusive conduct happened both while nurses were present (and did nothing to stop it or
2 intervene) and also at certain times when Dr. Heaps had sent the nurses out of the room for
3 what Plaintiff Doe 13 now believes was a pre-textual reason.

4 5. On or about June 20, 2016, following an appointment with Dr. Heaps in or about
5 April 2016, Doe 13 spoke to another UCLA physician (her primary care doctor with whom
6 she had a years-long patient-physician relationship and friendship) about Dr. Heaps' conduct.
7 Plaintiff Doe 13 expressed concern about whether Dr. Heaps' actions were always medically
8 necessary and stated that Dr. Heaps had "grabbed" both her breasts at the same time while she
9 was sitting upright.

10 6. In response to Plaintiff Doe 13's report, her UCLA physician did not inform
11 Plaintiff Doe 13 that Dr. Heaps' conduct was inappropriate; on the contrary, her UCLA
12 primary care physician shrugged off her report and made jokes to Plaintiff Doe 13 about Dr.
13 Heaps' conduct. As such, based on her UCLA primary care doctor's unfazed reaction to what
14 Plaintiff Doe 13 told her, Plaintiff Doe 13 put aside any doubts or concerns that she was
15 having about Dr. Heaps' conduct.

16 7. Only recently, when Dr. Heaps was arrested, did Plaintiff Doe 13 come to
17 understand that Dr. Heaps' conduct was in fact grossly inappropriate and medically
18 unnecessary. When – after Dr. Heaps' arrest—Plaintiff Doe 13 contacted the same UCLA
19 primary care physician to whom she had made the earlier complaint, that UCLA physician
20 downplayed the sexual battery charges that had been filed against Dr. Heaps, telling Plaintiff
21 Doe 13 that the charges were levelled by "mentally unstable patients." Quite obviously, this
22 lack of support at a time when Plaintiff Doe 13 was coming to the realization that she had in
23 fact been abused and harassed by Dr. Heaps, caused her additional distress and humiliation.

24 8. On information and belief, Dr. Heaps had privileges at Ronald Reagan UCLA
25 Medical Center for thirty years, beginning in 1988, and provided services at UCLA Student
26 Health from 1983 to 2010. During his tenure as an employee of Defendant UC Regents,
27 Dr. Heaps was a very high earner for UCLA, ranking on the 2016 list of highest paid UC
28 employees, with an annual salary of \$1,182,265, as reported in an August 28, 2017 story in the

1 Sacramento Bee entitled, *All 35 of the University of California's highest-paid employees in*
2 *2016 were men.* Dr. Heaps was also apparently considered an OBGYN “to the stars,” who
3 was listed in the *Hollywood Reporter’s* annual *Best Doctors in Los Angeles* issue in 2015.

4 9. Perhaps because of the millions of dollars in income that he generated for UCLA
5 and the fact that he had powerful patients and was celebrated in the community (as recent
6 times have made apparent that sexual predators so often are), Defendant UC Regents wholly
7 failed to protect Plaintiff Doe 13 or other vulnerable women from Dr. Heaps.

8 10. In fact, UCLA allowed Dr. Heaps to continue to examine female gynecological
9 patients despite a history of similar complaints of misconduct and abuse, including (1) a
10 California Medical Board investigation in 2014 (at or near the time that UCLA apparently
11 acquired Dr. Heaps’ practice), which on information and belief involved allegations of sexual
12 misconduct during a patient examination; and (2) at least one claim that he sexually harassed
13 and molested a UCLA student that was posted online in a public forum in early 2015.

14 11. In addition, on information and belief, UCLA did not institute basic protections
15 in order to prevent sexual abuse of patients, including having independent, qualified, and
16 trained chaperones present during examinations and/or, if any such protocols were in place,
17 UCLA’s employees did not follow such protocols. Nor, on information and belief, did UCLA
18 train or supervise its employees so as to make them aware of how to intervene should any
19 medically unnecessary or inappropriate conduct occur, nor how to report such misconduct. As
20 stated above, even though the abuse inflicted upon Plaintiff Doe 13 at times occurred in the
21 presence of a chaperone, the chaperones –who, on information and belief were supervised by
22 Dr. Heaps–did not act to stop the incidents or report the incidents to authorities.

23 12. As described herein, on information and belief, one nurse/chaperone in
24 particular had a history of criminality while employed by UCLA and eventually left her job
25 with Dr. Heaps after voluntarily surrendering her nursing licenses as a result of drug
26 (including prescription drug) and alcohol abuse and DUI’s. The fact that UCLA would hire
27 and retain such an individual purportedly to watch over and care for female patients, is both
28 highly troubling and actionable.

1 13. The UC Regents had a duty to its students and other patients using its services to
2 ensure that physicians employed by or affiliated with it, such as Dr. Heaps, used their
3 positions consistent with the standard of care and did not abuse and harass patients. The UC
4 Regents abrogated this duty. The UC Regents violated its students' and patients' trust by
5 knowingly exposing them to Dr. Heaps during medical treatments, knowing that inappropriate
6 physical contact and other harassment would occur. On information and belief, the UC
7 Regents actively and deliberately concealed Dr. Heaps' sexual abuse for years, continuing to
8 grant Dr. Heaps unfettered access to female patients in order to protect UCLA's reputation and
9 financial coffers.

10 14. On information and belief, in or about late June 2018, Dr. Heaps was forced to
11 resign. UCLA, however, again chose to protect itself and Dr. Heaps and keep this incident
12 (and others known to it) under wraps. In or about mid-June 2018, UCLA sent a letter to
13 patients of Dr. Heaps, stating that "it is with mixed emotions" that UCLA announces
14 Dr. Heaps' "retirement." UCLA then continued to feature Dr. Heaps on the webpages of
15 UCLA Health and of the David Geffen School of Medicine for nearly a year following,
16 allowing Dr. Heaps and UCLA to save face in the community, a community unwittingly
17 exposed to a sexual predator by Defendants.

18 15. Dr. Heaps' actions and the inaction of the UC Regents and its employees (both
19 before and after Plaintiff's horrific encounters with Dr. Heaps as described herein), have
20 caused Plaintiff Doe 13 tremendous and lasting harm, including feelings of fear and
21 powerlessness, symptoms of post-traumatic stress disorder, and other physical and emotional
22 manifestations of the severe emotional distress that she has suffered.

23 16. Dr. Heaps has now been arrested and charged with multiple felony counts,
24 including in connection with alleged sexual battery of his patients. When Dr. Heaps was
25 arrested, and publicity with regard to his misconduct was all but inevitable, the UC Regents
26 changed course, then issuing a public statement contending that Dr. Heaps was "terminated"
27 and that UCLA has purportedly taken corrective action. This communication was circulated
28 to the UCLA "Campus Community" by the UCLA Chancellor and Vice Chancellor, UCLA

1 Health Services. This is a far cry from the previous communication to patients announcing
2 Dr. Heaps' "retirement," a communication that failed to alert the community to his misconduct
3 or offer any assistance or support to Plaintiff Doe 13 or other victims.

4 17. Only when Dr. Heaps' arrest became public, did Plaintiff Doe 13 come to
5 understand what had been done to her by Dr. Heaps' misconduct and UCLA's inaction. Only
6 in the last few weeks has Plaintiff Doe 13 come to realize that she was subjected to
7 inappropriate touching during breast and pelvic examinations and that Dr. Heaps conduct in
8 those exams was medically unnecessary and of a sexual nature. She has also come to realize
9 that her UCLA primary care physician's response – when Plaintiff Doe 13 made a report to
10 her about Dr. Heaps – was an attempt to cover for UCLA Health and protect its reputation and
11 earnings – by ensuring that Doe 13 did not share details of Dr. Heaps' misconduct with others
12 or take any further action. Of course, ignoring and suppressing a credible report of
13 misconduct, such as that made by Plaintiff Doe 13, subjected likely hundreds of other female
14 patients to continued sexual abuse by Dr. Heaps.

BACKGROUND FACTS

Defendant Dr. Heaps Provides Gynecological Services to UCLA Patients

17 18. Dr. Heaps completed his internship and residency as an obstetrician-
18 gynecologist and a fellowship in gynecologic oncology at the UCLA School of Medicine from
19 1983–1989. Upon information and belief, beginning in the early 1990s, Dr. Heaps was in
20 private practice as an OBGYN at an office located at 100 Medical Plaza in Westwood. On
21 further information and belief, in or about February 2014, Dr. Heaps' private practice was
22 acquired by the UC Regents and Dr. Heaps was hired by the UC Regents as a full-time
23 gynecologist at UCLA Health, with a purported specialty in gynecologic oncology.

24 19. In that role, on information and belief, Dr. Heaps continued to provide
25 gynecological services to women, including Plaintiff Doe 13, at his office located at 100
26 Medical Plaza in Westwood. On further information and belief, Dr. Heaps had privileges at
27 Ronald Reagan UCLA Medical Center from 1988 to 2018, where he performed procedures
28 and provided services to hospitalized female patients. On further information and belief,

1 Dr. Heaps was a professor at the University of California Los Angeles David Geffen School of
2 Medicine from 1989 until 2018.

3 20. On information and belief, Dr. Heaps also at times provided gynecological
4 services to students at the UCLA Student Health Center between 1983 and 2010. In addition,
5 in the early 2000s and at other times, on information and belief, Dr. Heaps and his then-
6 partner regularly advertised their gynecological practice in *The Daily Bruin*, UCLA's daily
7 student newspaper, presumably to attract female UCLA students as patients.

8 21. At all times herein alleged, Dr. Heaps was an agent, servant, and/or employee of
9 Defendant UC Regents and its medical clinics, facilities, and locations, and/or was under its
10 complete control and/or direct supervision. It was through this position of access, trust, and
11 authority that Dr. Heaps sexually exploited and abused Plaintiff.

12 **UCLA Turns a Blind Eye to Sexual Abuse and Harassment by Dr. Heaps**

13 22. UCLA holds itself out as a provider of high quality medical care for women,
14 stating on the UCLA Health website that it is one of the “premier providers of modern
15 medicine to the Los Angeles area and the nation” and that its Obstetrics and Gynecology
16 department is “dedicated to providing comprehensive and personal care for women.” UCLA
17 also publicly touts its purported “serious commitment to addressing and preventing sexual
18 violence and sexual harassment.”

19 23. During Dr. Heaps’ tenure at UCLA, however, Plaintiff is informed and believes,
20 and on this basis alleges, that Dr. Heaps sexually abused and molested a number of his female
21 patients, including Plaintiff Doe, through the use of his position and authority as a full-time
22 gynecologist employed by the UC Regents.

23 24. It is unknown to Plaintiff Doe 13 what background information the UC Regents
24 sought from Dr. Heaps in advance of his being hired at UCLA (and his practice acquired by
25 the UC Regents) in or about February 2014. It is unclear whether the UC Regents did any
26 independent investigation of Dr. Heaps or his background when they sought to employ him to
27 provide gynecological services to female patients at his UCLA Health office and at Ronald
28 Reagan UCLA Medical Center.

1 25. Plaintiff is informed and believes, and on this basis alleges, however, that the
2 California Medical Board investigated Dr. Heaps in or about 2014—during, on information
3 and belief—a time in which Dr. Heaps’ practice was being acquired by UCLA and when he
4 was being hired as an employee of the UC Regents (the “2014 Medical Board Investigation”).
5 On information and belief, the 2014 Medical Board investigation arose from an allegation that
6 Dr. Heaps acted in a medically inappropriate and sexual manner during a patient examination.
7 On information and belief, the UC Regents had knowledge that the 2014 Medical Board
8 Investigation was taking place at the time that it was ongoing. On information and belief, the
9 UC Regents failed to take corrective action.

10 26. In or about January 2015, during Dr. Heaps’ tenure at UCLA Health, a report of
11 sexually inappropriate conduct by Dr. Heaps was posted on Yelp, a public review website.
12 The young woman who posted on Yelp stated that the misconduct she alleged, which included
13 Dr. Heaps groping her breast and making inappropriate comments during a post-operative
14 appointment with her, had occurred several years prior to her Yelp post and while she was a
15 UCLA student. The woman who posted on Yelp detailed her experience with this harassment
16 and molestation by Dr. Heaps and its aftermath, stating that, “7 years later, I still feel
17 violated.”

18 27. Subsequent to the 2014 Medical Board Investigation, and despite the existence
19 of at least one accusation of sexual misconduct on a public website detailed above, Dr. Heaps
20 continued to practice as a UCLA gynecologist, both in his UCLA Health office and, on
21 information and belief, at Ronald Reagan UCLA Medical Center. As discussed above,
22 Dr. Heaps was paid one of the highest salaries of any UC system employee in 2016 and, on
23 information and belief, in other years during his UCLA tenure.

24 28. As discussed throughout, in or about June 2016, Plaintiff Doe 13 herself made a
25 report to her UCLA primary care physician, expressing concern about Dr. Heaps’ conduct.
26 Plaintiff Doe 13’s concerns were brushed aside and joked about by this UCLA physician. On
27 information and belief, this UCLA physician never made any report to authorities with regard
28 to Plaintiff Doe 13’s credible concerns about Dr. Heaps’ conduct towards her.

1 29. In or about early December 2017, a patient of Dr. Heaps complained to UCLA
2 in detail about the verbal and physical sexual harassment and abuse that she had been forced
3 to endure at the hands of Dr. Heaps. Nonetheless, UCLA chose to ratify Dr. Heaps' conduct,
4 allowing him to continue practicing and seeing patients (including Plaintiff Doe 13)
5 uninterrupted for the better part of a year. Those patients—likely hundreds in number—were
6 seeking routine care and were unwittingly exposed to a serious threat of lasting harm.
7 Notwithstanding these complaints—and despite being on notice of Dr. Heaps' malfeasance—
8 the UC Regents continued to employ or otherwise affiliate with Dr. Heaps and ratify his
9 conduct, allowing him to maintain his practice and see patients, which he did until mid-2018.

10 30. Plaintiff is further informed and believes that, in or before mid-2018, the UC
11 Regents were informed of an employee complaint against Dr. Heaps involving sexual
12 harassment and retaliation. Notwithstanding these allegations, the UC Regents failed to put
13 appropriate safeguards in place to prevent foreseeable harm to female gynecological patients.

14 31. The UC Regents failed to take prompt action in response to complaints received
15 about Dr. Heaps, including the aforementioned complaints. Instead, to avoid negative
16 publicity, the UC Regents continued to provide Dr. Heaps unfettered access to patients,
17 including young female students at UCLA and female patients at UCLA Health.

18 **Plaintiff Doe 13 Is Sexually Battered and Harassed by Dr. Heaps**

19 **During Routine Gynecological Examinations**

20 32. After being diagnosed with breast cancer in 2005, Plaintiff Doe 13 sought
21 treatment from Dr. Heaps because of his expertise in oncology. Between 2007 and mid-2016,
22 Plaintiff was treated by Dr. Heaps at annual and semi-annual examinations.

23 33. Oftentimes, when Dr. Heaps performed routine pelvic examinations on Plaintiff
24 Doe 13, (including transvaginal ultrasounds which he performed without a chaperone in the
25 examination room) he touched her in a way that she now understands was not medically
26 necessary or appropriate, including sliding his hands along her inner thigh and rubbing and
27 resting his hands on her pubic bone in a way that Plaintiff Doe 13 now understands was
28 intended to sexually stimulate her and gratify Dr. Heaps.

1 34. Dr. Heaps also performed what should have been routine breast examinations in
2 a manner that Plaintiff has come to understand was inappropriate and sexual in nature. On
3 several occasions, Dr. Heaps grabbed both of her breasts at once with his thumbs under her
4 breasts and aggressively groped them. Dr. Heaps also used a stroking motion to rub along the
5 outside of her breasts while telling Plaintiff Doe 13 that she had “breasts like a teenager.” On
6 several occasions, Dr. Heaps also made other comments which Plaintiff Doe 13 has now come
7 to understand were inappropriate, including “compliments” about her intimate body parts and
8 about how “good” her breasts looked despite her having had reconstructive surgery following
9 her battle with breast cancer.

10 35. At one visit, on or about April 14, 2016, Dr. Heaps performed a pap smear
11 during which time a chaperone was in the room with Dr. Heaps and Plaintiff Doe 13. After
12 the examination appeared to be complete and the chaperone left the room , Dr. Heaps stated
13 that he had forgotten “to check this” and proceeded to touch Plaintiff Doe 13 in a way that she
14 now believes was designed to sexually stimulate her. When the chaperone unexpectedly came
15 back into the room, Dr. Heaps quickly stopped what he was doing and stated that “all good,”
16 which Plaintiff Doe 13 now believes was intended by Dr. Heaps to convey that he was
17 finishing an appropriate examination when in fact he had been engaging in sexual abuse of
18 Plaintiff Doe 13.

19 36. At some point after that appointment, on or about June 20, 2016, Plaintiff spoke
20 to her UCLA primary care physician about Dr. Heaps’ examination “techniques.”
21 Specifically, Plaintiff Doe 13 told this UCLA physician that Plaintiff Doe 13 did not like how
22 Dr. Heaps touched her and that he had simultaneously grabbed both her breasts while she was
23 sitting up. This physician, whom Plaintiff Doe 13 trusted as her longtime doctor and personal
24 friend, did not appear to be concerned, and did not inform Plaintiff Doe 13 that she (the UCLA
25 physician) had any question about the appropriateness of Dr. Heaps’ conduct. Rather, the
26 physician joked about Dr. Heaps’ behavior, said Dr. Heaps was “a nice man” and ended the
27 conversation with laughter. On information and belief, the physician’s statements were
28 intended to—and did—cause Plaintiff Doe 13 to put aside her concerns and to believe that Dr.

1 Heaps' treatment was medically necessary and appropriate.

2 37. This conversation, combined with Doe 13's lack of medical expertise and the
3 level of trust she placed in Dr. Heaps, confirmed Doe 13's belief that Dr. Heaps' behavior was
4 medically necessary and commonplace. Only in the last few weeks has Plaintiff Doe 13 come
5 to realize that Dr. Heaps' conduct was inappropriate and of a sexual nature.

6 38. On information and belief, on or about June 30, 2018, Dr. Heaps ceased
7 providing services to patients through UCLA Health. On information and belief, on or about
8 June 19, 2018, UCLA Health sent a letter, authored by Dr. Deborah Krakow, MD, Professor
9 and Chair of the Department of Obstetrics and Gynecology and Professor of Human Genetics
10 and Orthopedic Surgery, David Geffen School of Medicine at UCLA, to patients of Dr. Heaps.
11 In that letter, Dr. Krakow stated that “[i]t is with mixed emotions that I announce the
12 retirement of Dr. James Heaps.” At the time that UCLA Health sent this notification letter to
13 patients of Dr. Heaps, UCLA Health was aware of specific allegations and of the then ongoing
14 California Medical Board Investigation of Dr. Heaps. Plaintiff Doe 13 received this letter in
15 or about June 2018.

16 39. When Dr. Heaps was arrested in or about June 2019, Plaintiff Doe 13 again
17 contacted her UCLA primary care physician. In email correspondence, the UCLA physician
18 (whom she had already questioned about Dr. Heaps' conduct in the past) downplayed the
19 charges of sexual battery that had been filed against Dr. Heaps, telling Plaintiff Doe 13 that
20 “[t]hese are old charges from mentally unstable patients.”

21 40. All of the actions of Dr. Heaps alleged in the following causes of action were
22 ratified and approved by the officers or managing agents of the UC Regents. Further, the UC
23 Regents had notice of Dr. Heaps' unfitness in advance of his sexual battery and harassment of
24 Plaintiff, yet failed to take corrective action to protect Plaintiff or other students or patients.
25 Despite this notice, the UC Regents allowed Dr. Heaps to remain employed and left him in a
26 position where he could molest, batter, and harass Plaintiff Doe 13, other patients, and
27 students.

28 41. The UC Regents condoned and ratified the conduct of Dr. Heaps by their

1 advance notice of Dr. Heaps' unfitness at work, by their failure to make required reports of
2 suspected abuse, and by their failure to take immediate corrective action to protect Plaintiff
3 Doe 13 and other patients (including students) from further harm after reports—and formal
4 California Medical Board investigations—of Dr. Heaps' sexual assault of patients.

5 42. As discussed throughout, Defendant UC Regents also failed to put in place
6 appropriate safeguards to prevent foreseeable harm to female gynecological patients, including
7 imposition of a policy providing for the mandatory presence of an independent and
8 appropriately trained chaperone, to prevent, deter and report any misconduct in the context of
9 gynecological examinations and procedures. Defendant UC Regents also failed adequately (or
10 at all) to train its employees and agents in how to recognize and report any sexual or medical
11 battery or harassment.

12 43. The female chaperones who were at times in the room during Dr. Heaps' sexual
13 battery and harassment of Plaintiff Doe 13 acted recklessly and negligently, in that they failed
14 to reasonably perform their duties as a chaperone and failed to act with the ordinary care one
15 would expect. The chaperones—on information and belief, employees of the UC Regents—
16 failed to raise any alarms during Dr. Heaps' misconduct (which they at times witnessed) or
17 take any other reasonably expected actions to prevent or stop the misconduct, despite being
18 aware of the lack of medical necessity of Dr. Heaps' touching and comments to Plaintiff Doe
19 13. Further, on information and belief, the chaperones did not report Dr. Heaps' misconduct.

20 44. Plaintiff Doe 13 is now informed and believes, and based thereon alleges, that
21 the UC Regents further breached its duties owed to Plaintiff Doe 13 and other patients by,
22 among other things, failing to conduct reasonable investigation and/or due diligence prior to
23 hiring individuals assigned to assist Dr. Heaps during the relevant time period, including those
24 charged with the important task of chaperoning gynecological examinations.

25 45. On information and belief, a nurse/chaperone employed by UCLA Health from
26 in or about 2003 until in or about 2016 was retained despite the fact that was—in or about
27 2008—criminally charged with welfare fraud and perjury and pleaded guilty to welfare fraud
28 prior to being employed by the UC Regents. On information and belief, during the time she

1 was employed by the UC Regents, this nurse/chaperone was also a defendant in a civil
2 harassment suit. It is unclear why such an individual would be retained in a position of trust,
3 with access to private patient medical and personal information. Nor is it clear why such a
4 person would be called upon to act as a chaperone and purportedly safeguard women's well-
5 being and safety.

6 46. In addition, on information and belief, during the time in which she was
7 employed by UCLA as a nurse/chaperone in the office of Dr. Heaps, this nurse/chaperone was
8 charged with driving under the influence of alcohol and was again (the next year) charged
9 with driving under the influence of drugs and alcohol. On information and belief, in both
10 instances, the nurse/chaperone pleaded no contest in response to the charges.

11 47. As a result of these charges, on information and belief, the Board of Vocational
12 Nursing and Psychiatric Technicians, Department of Consumer Affairs, initiated proceedings
13 against this individual's nursing license (the "Accusation"). The Accusation alleges that this
14 nurse/chaperone's medical records indicated that she took a bottle of Xanax pills causing her
15 to "black out" while driving. The Accusation also alleges that an outpatient program
16 diagnosed her with "unspecified alcohol dependence, unspecified drinking behavior, and
17 sedative, hypnotic, or anxiolytic dependence." Quite obviously, the UC Regents was on
18 notice that this nurse was unfit to perform the duties for which she was employed, including
19 chaperoning gynecological procedures and providing medical treatment to patients.

20 48. Dr. Heaps' misconduct, the chaperones' silence and inaction—and the UC
21 Regents' cover up—has resulted in tremendous harm to Plaintiff Doe. The physical and
22 psychological aftermath of Dr. Heaps' conduct has been severe for Plaintiff Doe. She has
23 suffered from shock, humiliation, embarrassment and other forms of severe emotional distress.
24 This has resulted in sleeplessness, lack of focus, anxiety, flashbacks, and other physical and
25 psychological manifestations of the distress caused by Defendants' egregious acts.

THE PARTIES

27 || 49. Plaintiff Jane Doe 13 currently resides in Kamuela, State of Hawaii.

28 ||| 50. Defendant UC Regents is, and at all times relevant hereto was, a California

1 Corporation having its principal place of business in the State of California. Upon information
2 and belief, the UC Regents is the governing body of the University of California and exercises
3 the ultimate dominion and control of the same. UCLA is an educational institution of higher
4 learning.

5 51. Plaintiff Doe 13 is informed and believes, and on that basis alleges, that UC
6 Regents owned, operated, and maintained UCLA Health, through which medical services
7 were provided to Plaintiff Doe, pursuant to licenses issued by the California State Department
8 of Health and provided health care as healthcare facilities.

9 52. Plaintiff Doe 13 is informed and believes, and on that basis alleges, that
10 Defendant Dr. Heaps is, and at all times relevant hereto was, an individual residing in the State
11 of California. At all times mentioned herein, Dr. Heaps was a physician licensed by the State
12 of California to practice medicine, and was the employee and/or agent of the UC Regents.

13 53. Plaintiff Doe 13 is ignorant of the true name of the female nurses/chaperones
14 that were in the room during Dr. Heaps' sexual battery and harassment of Plaintiff Doe 13,
15 and therefore sues these defendants as Roes 1-5. Upon information and belief, Plaintiff Doe
16 alleges that Roes 1-5 were nurses employed by the UC Regents. Plaintiff Doe 13 will amend
17 this Complaint to allege Defendants Roes 1-5's true names and capacities when it has been
18 ascertained or upon proof at trial. Plaintiff Doe 13 alleges that Roes 1-5 are legally
19 responsible in some manner for the occurrences and damages alleged herein and/or are jointly
20 and severally liable.

21 54. Plaintiff Doe 13 is ignorant of the true names and capacities of defendants sued
22 as Roe Nos. 6 through 20, inclusive, and sues these Roe defendants by these fictitious names.
23 Plaintiff Doe 13 will amend this Complaint to allege their true names and capacities when they
24 have been ascertained or upon proof at trial. Plaintiff Doe 13 alleges that each of the
25 fictitiously named Roe defendants is legally responsible in some manner for the occurrences
26 and damages alleged herein and/or is jointly and severally liable for the obligations of the
27 other defendants.

28 55. Plaintiff Doe 13 is informed and believes, and based thereon alleges, that at all

times relevant each of the defendants, including the Roe Defendants, was the agent, employee, manager, supervisor, owner, servant and joint venturer of each of the remaining Defendants and that in doing the things alleged, was acting within the course, scope and authority of such agency, employment, supervision, management, ownership and joint venture, and with the consent and permission of each of the other Defendants. Unless otherwise indicated, all Defendants, including the Roe Defendants, are collectively referred to herein as the "Defendants."

8 56. Plaintiff Doe 13 is informed and believes, and on that basis alleges, that, in
9 addition to its own independent conduct, UC Regents is vicariously liable for the acts,
10 misconduct, and omissions—both negligent and intentional—of Dr. Heaps and its other
11 employees, including but not limited to the female chaperones who were in the examination
12 room at the time of Dr. Heaps’ examination of Plaintiff Doe 13—as more particularly
13 described above, pursuant to the doctrine of *respondeat superior* and Cal. Gov’t Code § 815.2.
14 Dr. Heaps, the female chaperone, and others were acting in the course and scope of their
15 employment at the time of the allegations herein.

16 57. Once the 90 day wait period pursuant to CCP 364 expires without resolution,
17 Plaintiff Doe intends to amend her complaint to add a claim of professional negligence against
18 Defendants.

19 58. In the event that Dr. Heaps is convicted of felonies for the conduct alleged
20 herein, Plaintiff Doe 13 requests leave to amend this Complaint, such that a request for
21 attorneys' fees can be made against Dr. Heaps and Defendants pursuant to Code of Civil
22 Procedure § 1021.4.

JURISDICTION AND VENUE

24 59. This Court has personal jurisdiction of the UC Regents as it is, and at all times
25 relevant hereto was, a California corporation doing business in California.

26 60. This Court has personal jurisdiction of Dr. Heaps as he is, and at all times
27 relevant hereto was, an individual residing in the State of California.

28 61. At least some of the wrongful acts alleged herein occurred in the County of Los

1 | Angeles; thus venue is properly in the County of Los Angeles.

FIRST CAUSE OF ACTION

(Violations of Unruh Act against All Defendants: Civil Code § 51)

4 62. Plaintiff Doe 13 incorporates Paragraphs 1 through 61 as though fully set forth
5 herein.

6 63. Plaintiff Doe 13's civil rights were violated by Defendants when they abused
7 and harassed Plaintiff Doe 13 and when they intentionally and fraudulently concealed
8 complaints of sexual exploitation, sexual abuse, sexual harassment and molestation by Dr.
9 Heaps from Plaintiff Doe 13, as well as other patients. Defendants likewise ignored Plaintiff
0 Doe 13's own complaint and lulled her into a false belief that Dr. Heaps' conduct was not
1 inappropriate. Plaintiff had a right to be free from gender discrimination, sexual molestation,
2 abuse and harassment under the Unruh Civil Rights Act.

3 64. The Defendants were acting under the color of their authority and in the scope of
4 their employment, during the instances when Plaintiff Doe 13 was a patient at UCLA Health.

15 65. The Defendants denied Plaintiff full and equal accommodations, advantages,
16 facilities, privileges and healthcare services because of her gender, by allowing Dr. Heaps
17 unfettered access to sexually abuse Plaintiff Doe 13, by and through his position of authority
18 as a UCLA Health gynecologist, by actively concealing from Plaintiff the knowledge that
19 Dr. Heaps was a serial sexual predator, which the UC Regents enabled and which conduct the
20 UC Regents ratified.

21 66. By employing and retaining Dr. Heaps as a gynecologist at UCLA Health,
22 despite their knowledge of reports of Dr. Heaps' sexually abusive nature, Defendants exposed
23 female patients, including Plaintiff Doe 13, to Dr. Heaps' sexual abuse and harassment.
24 Defendants' retention of Dr. Heaps denied Plaintiff Doe, and all of their other female patients,
25 full and equal access to safe medical facilities, treatment and services, based upon their
26 gender.

27 67. The substantial motivating reason for the UC Regents' conduct of actively
28 concealing numerous complaints of Dr. Heaps' sexually abusive nature was Plaintiff's gender,

1 as Defendants knew that only its female patients would seek gynecological treatment from
2 Defendant Heaps and, thus, would be unwittingly subjected to his sexual assault, battery and
3 harassment.

4 68. As a direct and proximate result of Defendants' tortious acts, omissions,
5 wrongful conduct and breaches of their duties, Plaintiff has suffered substantial general,
6 special, and consequential damage in an amount to be proven at trial, but in no event less than
7 the minimum jurisdictional amount of this Court.

8 69. As a further direct and proximate result of Defendants' collective and concerted
9 wrongful actions, as herein alleged, Plaintiff Doe 13 has been hurt in her health, strength and
10 activity. Plaintiff has sustained permanent and continuing injury to her nervous systems and
11 person, which has caused and continues to cause great mental and physical pain, suffering,
12 fright, upset, grief, worry and shock in an amount according to proof at trial but in no event
13 less than the jurisdictional minimum requirements of this Court.

SECOND CAUSE OF ACTION

(Violations of Bane Act against All Defendants: Civil Code § 52.1)

16 70. Plaintiff Doe 13 incorporates Paragraphs 1 through 69 as though fully set forth
17 herein.

18 71. Defendants' actions, as alleged herein, have had and will continue to interfere
19 with Plaintiff Doe 13's right to be free from gender discrimination in the form of sexual
20 harassment, codified under Cal. Civ. Code § 52.1.

21 72. During Plaintiff Doe 13's time as a patient at UCLA Health, Defendants
22 engaged in oppressive and unlawful tactics in abusing and harassing Plaintiff Doe, as well as
23 ignoring, concealing, and suppressing Plaintiff Doe 13's and other patient's complaints of
24 being sexually exploited and abused by Dr. Heaps. These intentional acts of concealment of
25 Dr. Heaps' abusive behavior violated Plaintiff Doe's right to be free from discrimination on
26 the basis of her gender, under Cal. Civ. Code § 52.1.

27 73. Defendants' wrongful conduct was intended to, and did successfully interfere
28 with Plaintiff Doe 13's Constitutional rights to be free from gender discrimination and

1 harassment, as well as interfered with her rights of Due Process under the United States'
2 Constitution, specifically the Fifth and Fourteenth Amendments.

3 74. Defendants unlawfully and wrongfully used, or employed others to wrongfully
4 use, threats, intimidation, harassment, violence, and coercion over Plaintiff's person, to which
5 Plaintiff, who did not have knowledge that the conduct in which Defendants were engaging
6 was not medically necessary, had no relief except to submit to the Defendants' wrongful
7 threats, intimidation, harassment, violence, and coercion, which rendered Plaintiff's
8 submission involuntary.

9 75. Defendants' above-noted actions were the legal and proximate causes of
10 physical, psychological, and emotional damages to Plaintiff Doe 13, who has suffered and
11 continue to suffer to this day. The actions of Defendants have also resulted in Plaintiff Doe 13
12 incurring, and will require her to incur into the future, expenses for medical and psychological
13 treatment, therapy, and counseling.

14 76. As a result of the above-described conduct, Plaintiff suffered and continues to
15 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
16 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
17 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to
18 be prevented from performing daily activities and obtaining the full enjoyment of life; and
19 has incurred and will continue to incur expenses for medical and psychological treatment,
20 therapy, and counseling.

21 77. In subjecting Plaintiff to the wrongful treatment described herein, Defendants
22 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of
23 Plaintiff Doe 13's rights, entitling Plaintiff Doe 13 to compensatory damages in a sum to be
24 shown according to proof, emotional distress damages in a sum to be shown according to
25 proof, punitive and/or exemplary damages (with regard to Dr. Heaps), attorney's fees, other
26 damages pursuant to Civil Code section 52(b)(1), and a temporary restraining order or a
27 preliminary or permanent injunction ordering Defendants to refrain from conduct or activities
28 as alleged herein, stating "VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE

UNDER SECTION 422.77 OF THE PENAL CODE," and other such relief as the court deems proper.

3 78. In subjecting Plaintiff Doe 13 to the wrongful treatment herein described,
4 Dr. Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in conscious
5 disregard of Plaintiff Doe 13's rights, so as to constitute malice and oppression under
6 California Civil Code section 3294. Plaintiff Doe 13 is therefore entitled to the recovery of
7 punitive damages against Dr. Heaps, in an amount to be determined according to proof.

THIRD CAUSE OF ACTION

(Committing and Enabling Sexual Harassment against All Defendants:

Civil Code § 51.9)

79. Plaintiff Doe 13 incorporates Paragraphs 1 through 78 as though fully set forth
herein.

13 80. During Plaintiff Doe 13's time as a patient at UCLA Health, Defendants
14 intentionally, recklessly and wantonly committed, enabled, and omitted, acts which resulted in
15 harmful and offensive contact with intimate parts of Plaintiff Doe's person, including but not
16 limited to: sexual touching (including touching designed to sexually stimulate Plaintiff Doe
17 13) during pelvic "examinations", transvaginal ultrasounds and breast "examinations" which
18 Plaintiff Doe 13 has now come to understand was, without medical justification, all under the
19 supervision of Defendant the UC Regents. Female chaperones who were at times in the room
20 during Plaintiff Doe's examinations by Dr. Heaps sat silently as Plaintiff Doe was mistreated.

21 81. During Plaintiff Doe 13's time as a patient at UCLA Health, Defendants also
22 intentionally, recklessly and wantonly made, and enabled, what Plaintiff Doe 13 has now
23 come to understand were sexual and exploitative statements of a prurient nature, based on
24 Plaintiff's gender that were unwelcome, pervasive and severe, all under the supervision of
25 Defendant the UC Regents. Again, the female chaperones who were in the room at the time of
26 Plaintiff Doe 13's examination sat silently as Plaintiff Doe was subjected to these comments.

27 82. The incidents of abuse outlined herein took place while Plaintiff Doe was under
28 the control of Dr. Heaps and Defendant UC Regents in their capacities and positions as a

1 physician and as supervisors of physicians, medical professionals, and other staff at
2 Defendants' premises, and while acting specifically on behalf of Defendants' herein.

3 83. Because of Plaintiff Doe's relationships with Defendants Dr. Heaps and the UC
4 Regents, Dr. Heaps' status as a prominent and highly compensated gynecologist employed by
5 the Defendant UC Regents and promoted on the UCLA Health website as a highly skilled
6 physician, and Plaintiff Doe 13's vulnerability as a gynecological patient, Plaintiff Doe was
7 unable to easily terminate the relationship she had with the Defendants.

8 84. Because of Dr. Heaps' status, position of authority, physical seclusion of
9 Plaintiff Doe, her mental and emotional state, vulnerable position and the fact that she did not
10 understand that Dr. Heaps' conduct was not medically necessary she was unable to, did not,
11 and could not, give consent to such acts.

12 85. Even though Defendant UC Regents knew or should have known of these
13 pervasive, illegal and inappropriate activities by Dr. Heaps, the UC Regents did nothing to
14 investigate, supervise or monitor Dr. Heaps to ensure the safety of the patients in their charge.
15 Nor did Defendant UC Regents put in place—or enforce—safeguards to prevent foreseeable
16 harm to female gynecological patients, including imposition of a policy providing for the
17 mandatory presence of an independent and properly trained chaperone, to prevent, deter and
18 report any misconduct in the context of gynecological examinations and procedures.
19 Defendant UC Regents also failed adequately (or at all) to hire appropriate chaperones or train
20 its employees and agents in how to recognize and report any sexual or medical battery or
21 harassment.

22 86. With regard specifically to the liability hereunder of Defendant UC Regents, a
23 corporation is a “person” within the meaning of Civil Code Section 51.9, which subjects
24 persons to liability for sexual harassment within a business, service or professional
25 relationship, and such an entity defendant may be held liable under this Statute for the acts of
26 its employees. *C.R. v. Tenet Healthcare Corp.*, 169 Cal.App.4th 1094 (2009). Further,
27 principles of ratification apply when the principal ratifies the agent's originally unauthorized
28 harassment, as is alleged to have occurred herein.

87. Defendants' conduct (and the conduct of their agents, servants and/or employees) was a breach of their duties to Plaintiff Doe 13.

88. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be prevented from performing daily activities and obtaining the full enjoyment of life; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

FOURTH CAUSE OF ACTION

(Battery against All Defendants)

2 89. Plaintiff Doe incorporates Paragraphs 1 through 88 as though fully set forth
3 herein.

14 90. During the course of treatment of Plaintiff Doe 13, Dr. Heaps used his powers
15 and abilities as a physician, and his knowledge and background and access to Plaintiff Doe 13,
16 to sexually batter Plaintiff Doe 13, knowing that she would be vulnerable to this type of sexual
17 battery. Dr. Heaps engaged in sexual touching (including touching designed to sexually
18 stimulate Plaintiff Doe 13) during pelvic, transvaginal ultrasound and breast “examinations”
19 which Plaintiff Doe 13 has now come to understand was without medical justification,

20 91. The female chaperones who were at times in the room during the visits enabled
21 the sexual battery and assault of Plaintiff Doe 13 by failing to reasonably perform their duties
22 as a chaperones and failing to raise any alarms during Dr. Heaps' misconduct or take any other
23 reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 13.

24 92. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
25 13 and had she not been treated by Defendants, she would have never permitted such sexual
26 contact by Dr. Heaps, which acts (she now understands) constituted a harmful or offensive
27 touching and battery upon her person.

93. Plaintiff Doe 13 did not consent to the sexualized touching and sexual contact.

1 94. Dr. Heaps' conduct was within the course and scope of his employment with
2 Defendants, and each of them, and was ratified by Defendants and each of them who had
3 advance notice of this misconduct. All of the conduct occurred during the course and scope of
4 Dr. Heaps' employment at UCLA. Plaintiff suffered severe emotional distress and physical
5 injury as a result of Dr. Heaps' misconduct and damages as otherwise alleged in this
6 complaint. In addition, at the time she was in the examination room and while she was
7 witnessing Dr. Heaps' battery of Plaintiff Doe, the female chaperones were acting in the
8 course and scope of their employment with UCLA.

9 95. Defendant UC Regents is vicariously liable for the conduct alleged herein
10 because, even though Defendant UC Regents knew of these pervasive, illegal and
11 inappropriate activities by Dr. Heaps, the UC Regents did nothing to investigate, supervise or
12 monitor Dr. Heaps to ensure the safety of the patients in his charge. Nor did Defendant UC
13 Regents put in place—or enforce—safeguards to prevent foreseeable harm to female
14 gynecological patients, including imposition of a policy providing for the mandatory presence
15 of a properly trained independent chaperone, to prevent, deter and report any misconduct in
16 the context of gynecological examinations and procedures. Defendant UC Regents also failed
17 adequately (or at all) to train its employees and agents in how to recognize and report any
18 sexual or medical battery or harassment. Instead, Defendant UC Regents allowed Dr. Heaps
19 to continue to perform gynecological examinations of female patients despite knowledge that
20 he had committed battery and sexual battery and assault in the past.

21 96. In doing the acts alleged herein, Dr. Heaps used the power and authority
22 conferred upon him by Defendants the UC Regents to get access to patients such as Plaintiff
23 Doe 13. It is predictable and foreseeable, given Defendants' knowledge of Dr. Heaps' prior
24 misconduct and its negligent supervision of Dr. Heaps, and failure put in place—or enforce—
25 safeguards to prevent foreseeable harm to female gynecological patients, that someone in Dr.
26 Heaps' position would abuse the power and authority the UC Regents conferred upon him by
27 engaging in assaultive conduct. As such, Dr. Heaps' conduct is incident to his agency with the
28 UC Regents, so as to be fairly attributable to them.

97. As a proximate result of the above, Plaintiff Doe 13 suffered damages as otherwise alleged in this Complaint.

3 98. Dr. Heaps' conduct alleged herein was despicable, and was done willfully and/or
4 with a conscious disregard of Plaintiff's rights, and/or intentionally, or maliciously, or in
5 reckless disregard of the high probability of injury to Plaintiff and others. Defendants, and
6 each of them, were in a special relationship with Plaintiff Doe 13 by virtue of the fact that she
7 was a patient at UCLA Health and receiving their services.

8 99. Defendants, and each of them, further knew that Plaintiff Doe was especially
9 vulnerable and susceptible to injury by persons such as Dr. Heaps in the absence of adequate
10 supervision, and by reason of the authority the UC Regents vested in Dr. Heaps. The UC
11 Regents acted in conscious disregard of the rights and safety of Plaintiff by ignoring the
12 danger posed by Dr. Heaps, and by putting him in a position of trust and authority over
13 Plaintiff Doe 13, and failing to take proper steps to protect Plaintiff Doe 13 and other patients.
14 It was reasonably foreseeable Plaintiff Doe 13 would receive physical injury and severe
15 emotional distress as a result of Dr. Heaps' malfeasance. Defendant UC Regents' conduct in
16 this regard was done with the intent to cause injury to Plaintiff Doe 13 and/or done with a
17 conscious disregard of the rights and safety of Plaintiff.

18 100. In subjecting Plaintiff Doe 13 to the wrongful treatment herein described,
19 Defendant Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in
20 conscious disregard of Plaintiff Doe 13's rights, so as to constitute malice and oppression
21 under California Civil Code section 3294. Plaintiff Doe 13 is therefore entitled to the
22 recovery of punitive damages against Defendant Heaps, in an amount to be determined
23 according to proof.

FIFTH CAUSE OF ACTION

(Sexual Battery against All Defendants: Civil Code Section 1708.5)

26 101. Plaintiff Doe 13 incorporates Paragraphs 1 through 100 as though fully set forth
27 herein.

28 || 102. During Plaintiff Doe 13's time as a patient with Defendants, Dr. Heaps

1 intentionally, recklessly, and wantonly did acts which Plaintiff Doe 13 now understands were
2 intended to, and did, result in harmful and offensive contact with intimate parts of Plaintiff
3 Doe's person, including but not limited to: sexual touching (including touching designed to
4 sexually stimulate Plaintiff Doe 13) during pelvic, transvaginal ultrasound and breast
5 "examinations" which Plaintiff Doe 13 has now come to understand was without medical
6 justification, all while Dr. Heaps acted in the course and scope of his employment with the UC
7 Regents. The female chaperones who were at times in the room during the visits enabled the
8 sexual battery and assault of Plaintiff by failing to reasonably perform their duties as a
9 chaperone and failing to raise any alarms during Dr. Heaps' misconduct or take any other
10 reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 13.

11 103. Dr. Heaps did the aforementioned acts with the intent to cause a harmful or
12 offensive contact with an intimate part of Plaintiff Doe 13's person that would offend a
13 reasonable sense of personal dignity. Further, said acts did cause a harmful or offensive
14 contact with an intimate part of Plaintiff Doe 13's person that would offend a reasonable sense
15 of personal dignity.

16 104. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
17 13 and had she not been treated by Defendants, she would have never permitted such sexual
18 contact by Dr. Heaps.

19 105. Plaintiff Doe 13 did not consent to this sexualized touching and sexual contact.

20 106. Dr. Heaps' conduct was within the course and scope of his employment with
21 Defendants, and each of them, and was ratified by Defendants and each of them who had
22 advance notice of this misconduct. All of the conduct occurred during the course and scope of
23 Dr. Heaps' employment at UCLA. Plaintiff suffered severe emotional distress and physical
24 injury as a result of Dr. Heaps' misconduct and damages as otherwise alleged in this
25 complaint.

26 107. At the time she was in the examination room and while they were witnessing
27 Dr. Heaps' battery of Plaintiff Doe 13, the female chaperones were acting in the course and
28 scope of their employment with UCLA.

1 108. Defendant UC Regents is vicariously liable for the conduct alleged herein
2 because, even though Defendant UC Regents knew of these pervasive, illegal and
3 inappropriate activities by Dr. Heaps, the UC regents did nothing to investigate, supervise or
4 monitor Dr. Heaps to ensure the safety of the patients in his charge. Nor did Defendant UC
5 Regents put in place—or enforce—safeguards to prevent foreseeable harm to female
6 gynecological patients, including imposition of a policy providing for the mandatory presence
7 of a properly trained independent chaperone, to prevent, deter and report any misconduct in
8 the context of gynecological examinations and procedures. Defendant UC Regents also failed
9 adequately (or at all) to train its employees and agents in how to recognize and report any
10 sexual or medical battery or harassment. Instead, Defendant UC Regents allowed Dr. Heaps
11 to continue to perform gynecological examinations of female patients despite knowledge that
12 he had committed battery and sexual battery and assault in the past.

13 109. In doing the acts alleged herein, Dr. Heaps used the power and authority
14 conferred upon him by Defendants the UC Regents to get access to patients such as Plaintiff
15 Doe 13. It is predictable and foreseeable, given Defendants' knowledge of Dr. Heaps' prior
16 misconduct and its negligent supervision of Dr. Heaps, and failure put in place—or enforce—
17 safeguards to prevent foreseeable harm to female gynecological patients, that someone in Dr.
18 Heaps' position would abuse the power and authority the UC Regents conferred upon him by
19 engaging in assaultive conduct. As Such, Dr. Heaps conduct is incident to his agency with the
20 UC Regents, so as to be fairly attributable to them.

21 110. As a proximate result of the above, Plaintiff Doe 13 suffered damages as
22 otherwise alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps'
23 conduct, Plaintiff Doe 13 sustained serious and permanent injury to her person, all of his
24 damage in an amount to be shown according to proof and within the jurisdiction of the Court.

25 111. Plaintiff Doe 13 is informed and believes and based thereon alleges that the
26 conduct of Dr. Heaps was oppressive, malicious, and despicable in that it was intentional and
27 done in conscious disregard for the rights and safety of others, and was carried out with a
28 conscious disregard of Plaintiff Doe 13's right to be free from tortious behavior, such as to

1 constitute oppression, fraud, or malice pursuant to California Civil Code section 3294,
2 entitling Plaintiff Doe to punitive damages against Dr. Heaps in an amount appropriate to
3 punish and set an example of Dr. Heaps and send a cautionary message to others similarly
4 situated.

5 **SIXTH CAUSE OF ACTION**

6 **(Intentional Infliction of Emotional Distress against All Defendants)**

7 112. Plaintiff Doe 13 incorporates Paragraphs 1 through 111 as though fully set forth
8 herein.

9 113. The conduct of defendants UC Regents and Dr. Heaps toward Plaintiff Doe 13,
10 as described herein, was outrageous and extreme.

11 114. A reasonable person would not expect or tolerate the sexual harassment,
12 exploitation, molestation, and abuse of Plaintiff Doe 13 by Dr. Heaps, nor tolerate or expect
13 the UC Regents' knowledge of, and callous indifference to, the abuse. Plaintiff Doe 13 had
14 great faith, trust, and confidence in Defendants, which, by virtue of their wrongful conduct,
15 has now turned to fear, shame, and humiliation.

16 115. A reasonable person would not expect or tolerate the UC Regents placing
17 Dr. Heaps—who was known to the UC Regents to have physically and sexually abused other
18 patients—in a position of care of Plaintiff Doe 13, which enabled Dr. Heaps to have access to
19 Plaintiff Doe 13 so that he could commit wrongful sexual acts, including the conduct described
20 herein.

21 116. A reasonable person would not expect or tolerate the Defendants, their agents,
22 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps
23 from committing wrongful sexual acts with patients, including Plaintiff Doe 13, or to be
24 incapable or unwilling to supervise Dr. Heaps. A reasonable person would not expect a
25 chaperone whose presence was supposed to ensure Plaintiff Doe 13's comfort and safety
26 during a gynecological exam would sit idly by and not say anything while Plaintiff Doe 13
27 was being sexually abused by a physician. A reasonable person would not expect that UCLA
28 would not vet its nurse/chaperones to determine whether they have criminal histories and

remove them from their positions when it is clear that they have alcohol and drug dependencies. Indeed the presence of the silent chaperone has now further exacerbated Plaintiff Doe 13's extreme embarrassment and harm as she was subjected to what she now understands to be misconduct with a silent audience.

5 117. Defendants' conduct described herein was intentional and malicious and done
6 for the purpose of causing or with the substantial certainty that Plaintiff Doe 13 would suffer
7 humiliation, mental anguish, and emotional and physical distress.

8 118. As a result of the above-described conduct, Plaintiff Doe 13 has suffered and
9 continues to suffer great pain of mind and body, shock, emotional distress, physical
10 manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,
11 shame, humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was
12 prevented and will continue to be prevented from performing daily activities and obtaining the
13 full enjoyment of life; and has incurred and will continue to incur expenses for medical and
14 psychological treatment, therapy, and counseling.

15 119. In subjecting Plaintiff Doe 13 to the wrongful treatment described herein,
16 Dr. Heaps acted willfully and maliciously with the intent to harm Plaintiff Doe 13, and in
17 conscious disregard of her rights, so as to constitute malice and oppression under California
18 Civil Code section 3294. Plaintiff Doe 13 is therefore entitled to recover punitive damages
19 against Defendant Heaps, in an amount to be determined by the court.

SEVENTH CAUSE OF ACTION

(Negligent Infliction of Emotional Distress against all Defendants)

22 120. Plaintiff Doe 13 incorporates Paragraphs 1 through 119 as though fully set forth
23 herein.

24 121. A reasonable person would not expect or tolerate the sexual harassment,
25 exploitation, molestation, and abuse of Plaintiff Doe 13 by Dr. Heaps, nor tolerate or expect
26 the UC Regents' knowledge of and callous indifference to the abuse. Plaintiff Doe 13 had
27 great faith, trust, and confidence in Defendants, which, by virtue of their wrongful conduct,
28 turned to fear, shame, and humiliation.

1 122. A reasonable person would not expect or tolerate the UC Regents placing
2 Dr. Heaps—who was known to the UC Regents to have physically and sexually abused other
3 patients—in a position of care of Plaintiff Doe 13, which enabled Dr. Heaps to have access to
4 Plaintiff Doe 13 so that he could commit wrongful sexual acts, including the conduct described
5 herein.

6 123. A reasonable person would not expect or tolerate the Defendants, their agents,
7 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps
8 from committing wrongful sexual acts with patients, including Plaintiff Doe 13, or to be
9 incapable or unwilling to supervise Dr. Heaps. A reasonable person would not expect a
10 chaperone whose presence was supposed to ensure Plaintiff Doe's comfort and safety during a
11 gynecological exam would sit idly by and not say anything while Plaintiff Doe 13 was being
12 sexually abused by a physician. A reasonable person would not expect that UCLA would not
13 vet its nurse/chaperones to determine whether they have criminal histories and remove them
14 from their positions when it is clear that they have alcohol and drug dependencies. Indeed
15 looking back now on what she understands to be sexual abuse, the presence of the silent
16 chaperone has further exacerbated Plaintiff Doe 13's extreme embarrassment and harm as she
17 was subjected to the misconduct with a silent audience.

18 124. Defendants had a special relationship with Plaintiff Doe 13 and/or had
19 undertaken an obligation to her that necessarily implicated Plaintiff Doe 13's emotional well-
20 being. Specifically, Defendants had a duty to (1) take reasonable measures to prevent harm to
21 Plaintiff Doe 13 and (2) to promptly, adequately, reliably, fairly, and impartially investigate
22 and resolve Plaintiff Doe 13's concerns with regard to Dr. Heaps, and to protect her from Dr.
23 Heaps.

24 125. There was an especially likely risk that Defendants' negligent actions and
25 inactions would cause serious emotional distress to Plaintiff Doe 13. Defendants' failure to
26 take reasonable steps to institute safeguards to prevent sexual abuse and harassment caused
27 Plaintiff Doe 13 tremendous harm.

28 126. Defendants' negligence was a substantial factor in causing Plaintiff Doe serious

1 emotional distress.

2 **EIGHTH CAUSE OF ACTION**

3 **(Negligent Supervision and Retention against UC Regents)**

4 127. Plaintiff Doe 13 incorporates Paragraphs 1 through 126 as though fully set forth
5 herein.

6 128. By virtue of Plaintiff Doe 13's special relationship with the UC Regents as a
7 patient, and the UC Regents' relation to Dr. Heaps, Defendants owed Plaintiff Doe a duty not
8 to retain Dr. Heaps, given his dangerous and exploitative propensities, which Defendants
9 knew or should have known about.

10 129. Defendants expressly and implicitly represented that Dr. Heaps was a legitimate
11 gynecologist, and not a sexual threat to his female patients. As discussed throughout,
12 Dr. Heaps was well-compensated (a fact that was publically reported) and was acclaimed on
13 UCLA' websites as a highly skilled and professional physician.

14 130. At no time during the periods of time alleged herein did the UC Regents have in
15 place a reasonable system or procedure to investigate, supervise, and monitor its UCLA
16 physicians and healthcare personnel, including Dr. Heaps, to prevent sexual harassment,
17 sexual exploitation, molestation, and abuse of patients, nor did they implement a system or
18 procedure to oversee or monitor conduct toward patients and others in their care.

19 131. The UC Regents were aware, or should have been aware, and understood how
20 vulnerable gynecological patients were to sexual harassment, sexual exploitation, molestation,
21 and abuse by physicians and other persons of authority within the control of the UC Regents
22 prior to Plaintiff Doe 13's sexual abuse and exploitation by Dr. Heaps. As a result, Defendant
23 UC Regents should have put in place appropriate safeguards to prevent foreseeable harm to
24 female gynecological patients, including imposition of a policy providing for the mandatory
25 presence of an independent, properly trained chaperone, to prevent, deter and report any
26 misconduct in the context of gynecological examinations and procedures. Defendant UC
27 Regents also failed adequately (or at all) to train its employees and agents in how to recognize
28 and report any sexual or medical battery or harassment.

1 132. In fact, on information and belief, Defendant UC Regents knowingly hired at
2 least one individual which the UC Regents knew or should have known had a history of
3 criminality and fraud, and who—during the course of her employment as a nurse/chaperone in
4 Dr. Heaps’ office—was arrested multiple times for DUI’s stemming from alcohol and
5 prescription drug abuse. Defendant UC Regents thus further failed in their duty to provide
6 appropriate and skilled staff who could properly oversee intimate examinations and protect
7 female patients.

8 133. The UC Regents were put on notice, and should have known, that Dr. Heaps had
9 previously engaged, and continued to engage, in unlawful sexual conduct with female patients,
10 and that it was foreseeable, or should have been foreseeable, that Dr. Heaps was engaging in,
11 or would engage in, misconduct directed towards Plaintiff Doe 13 and others, under the
12 protection of the authority, confidence, and trust bestowed upon him through the UC Regents,
13 their agents, servants, and employees.

134. The UC Regents were placed on actual or constructive notice that Dr. Heaps had molested or was molesting female patients during his employment. Defendants had knowledge of inappropriate conduct, exploitation, and serial molestations committed by Dr. Heaps during his employment, yet chose to allow him to interact with patients, including Plaintiff Doe.

19 135. Despite the fact that the UC Regents knew, or should have known, of these
20 sexually exploitative activities being perpetrated by Dr. Heaps, the UC Regents failed to use
21 reasonable care in investigating Dr. Heaps and did nothing to reasonably investigate,
22 supervise, monitor, or terminate Dr. Heaps to ensure the safety of their patients.

23 136. The UC Regents' conduct in enabling Dr. Heaps to serially sexually assault his
24 female patients was a long-standing, gross, and inexcusable violation of the duty of care owed
25 to Plaintiff Doe 13.

²⁶ 137. Because the UC Regents:

27 (a) Had actual knowledge of the sexual exploitation, abuse, and harassment
28 being committed by Dr. Heaps;

11 | the UC Regents have enabled and permitted the conduct of Dr. Heaps as set forth herein.

12 138. The UC Regents, their agents, servants, and/or employees knew Dr. Heaps was
13 sexually exploiting, abusing, and harassing female patients and refused to take any action to
14 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this
15 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With
16 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
17 Regents and he was allowed to continue to interact with patients, including Plaintiff Doe 13.
18 The UC Regents, their agents, servants, and/or employees are thus responsible for Dr. Heaps'
19 acts of sexual exploitation, sexual assault, battery, and harassment.

139. As a result of the above-described conduct, Plaintiff Doe 13 has suffered and
continues to suffer great pain of mind and body, shock, emotional distress, physical
manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,
shame, humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was
prevented and will continue to be prevented from performing daily activities and obtaining the
full enjoyment of life; and has incurred and will continue to incur expenses for medical and
psychological treatment, therapy, and counseling.

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NINTH CAUSE OF ACTION

(Negligent Ratification against the UC Regents)

140. Plaintiff Doe 13 incorporates Paragraphs 1 through 139 as though fully set forth herein.

141. At all times relevant herein, each Defendant was the agent, partner, joint venturer, representative, servant, employee and/or co-conspirator of each of the other Defendants, and was at all times mentioned herein acting within the course and scope of said agency and employment, and that all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement authorization and consent of each Defendant designated herein.

142. Defendants and each of them were agents, principals, joint venturers, partners, representatives, servants, employees and/or co-conspirators of each of the other Defendants, each Defendant condoned and ratified the conduct of all other defendants, and was at all times mentioned herein acting within the course and scope of said agency and employment, authority and ratification.

143. The UC Regents learned Dr. Heaps had molested or was molesting female patients during his employment. Defendants had knowledge of inappropriate conduct, and exploitation committed by Dr. Heaps during his employment, yet chose to allow him to continue interacting with patients, including Plaintiff Doe.

144. Despite the fact that the UC Regents learned about these sexually exploitive activities being perpetrated by Dr. Heaps, the UC Regents failed to use reasonable care in investigating Dr. Heaps and did nothing to reasonably investigate, supervise, monitor, or terminate Dr. Heaps to ensure the safety of their patients.

145. In fact, on information and belief, Defendant UC Regents knowingly hired at least one individual which the UC Regents knew or should have known had a history of criminality and fraud, and who—during the course of her employment as a nurse/chaperone in Dr. Heaps’ office—was arrested multiple times for DUI’s stemming from alcohol and prescription drug abuse. Defendant UC Regents thus further failed in their duty to provide

1 appropriate and skilled staff who could properly oversee intimate examinations and protect
2 female patients.

3 146. The UC Regents' conduct in enabling Dr. Heaps to serially sexually assault his
4 female patients was a long-standing, gross, and inexcusable violation of the duty of care owed
5 to Plaintiff Doe 13.

6 147. Because the UC Regents:

- 7 (a) Had actual knowledge of the sexual exploitation, abuse, and harassment
8 being committed by Dr. Heaps;
- 9 (b) Failed to take action such as firing Dr. Heaps, reporting him to the police, or
10 reporting him to the California State Medical Board as mandated by Federal
11 Laws;
- 12 (c) Consciously and intentionally enabled Dr. Heaps to continue to sexually
13 exploit, abuse, and harass female patients by failing to take any of the above
14 action;
- 15 (d) Consciously and intentionally kept all of Dr. Heaps' exploitative, abusive,
16 and harassing behaviors secrets from patients and the public at large; and
- 17 (e) Failed to employ or train appropriate nurse/chaperones who could oversee
18 intimate examinations and report misbehavior.

19 the UC Regents have ratified the conduct of Dr. Heaps as set forth herein.

20 148. The UC Regents, their agents, servants, and/or employees learned Dr. Heaps
21 was sexually exploiting, abusing, and harassing female patients and refused take any action to
22 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this
23 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With
24 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
25 Regents and he was allowed to be alone with gynecological patients. The UC Regents, their
26 agents, servants, and/or employees thus approved, ratified, and are responsible for Dr. Heaps'
27 acts of sexual exploitation, sexual assault, battery, and sexual harassment.

28 149. As a result of the above-described conduct, Plaintiff Doe has suffered and

1 continues to suffer great pain of mind and body, shock, emotional distress, physical
2 manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,
3 shame, humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was
4 prevented and will continue to be prevented from performing daily activities and obtaining the
5 full enjoyment of life; and will continue to incur expenses for medical and psychological
6 treatment, therapy, and counseling.

7 **TENTH CAUSE OF ACTION**

8 **(Negligent Failure to Warn, Train, or Educate against the UC Regents)**

9 150. Plaintiff Doe 13 incorporates Paragraphs 1 through 149 as though fully set forth
10 herein.

11 151. Defendant UC Regents owed Plaintiff Doe 13 a duty to take reasonable
12 protective measures to safeguard Plaintiff and other female patients from the risk of sexual
13 battery by Dr. Heaps by properly warning, training or educating others, including their own
14 medical personnel, medical staff, administrators, and other agents, servants, and/or employees
15 (including chaperones) about how to avoid such a risk and what to do when such inappropriate
16 conduct is witnessed, reported, and/or discovered.

17 152. Defendant UC Regents breached its duty to take reasonable measures to protect
18 Plaintiff Doe 13 and other female patients from the risk of sexual harassment and abuse by
19 Dr. Heaps, such as the failure to properly warn, Plaintiff and other patients about Dr. Heaps.

20 153. Defendant UC Regents breached its duty to take reasonable protective measures
21 to safeguard Plaintiff and other patients from the risk of sexual harassment and abuse by
22 Dr. Heaps, by failing to supervise and stop employees, such as Dr. Heaps, and prevent them
23 from committing sexually abusive and exploitative acts upon patients, including Plaintiff Doe
24 13.

25 154. In fact, on information and belief, Defendant UC Regents knowingly hired at
26 least one individual which the UC Regents knew or should have known had a history of
27 criminality and fraud, and who—during the course of her employment as a nurse/chaperone in
28 Dr. Heaps’ office—was arrested multiple times for DUI’s stemming from alcohol and

1 prescription drug abuse. Defendant UC Regents thus further failed in their duty to provide
2 appropriate and skilled staff who could properly oversee intimate examinations and protect
3 female patients.

4 155. By breaching its duty, Defendant UC Regents unreasonably and wrongfully
5 exposed Plaintiff Doe 13 and other patients to sexual battery and abuse.

6 156. As a proximate result of the above-referenced conduct, Plaintiff has suffered and
7 continues to suffer great pain of mind and body, shock, emotional distress, shame, physical
8 manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,
9 humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was
10 prevented and will continue to be prevented from performing daily activities and obtaining the
11 full enjoyment of life; and/or has incurred and will continue to incur expenses for medical and
12 psychological treatment, therapy, and counseling.

ELEVENTH CAUSE OF ACTION

(Ordinary Negligence against Defendants UC Regents and Roes)

157. Plaintiff Doe 13 incorporates Paragraphs 1 through 156 as though fully set
forth herein.

158. Defendants committed the negligent acts and/or negligent failures to act, as set
forth above, and those acts caused the emotional and physical harm endured by Plaintiff Doe.

159. Defendants owed Plaintiff a duty of care to act.

160. Defendants breached that duty of care by way of their conduct and failed to
exercise reasonable care, as detailed and alleged above.

161. For example, the chaperones who were in the room during Dr. Heaps' sexual
assault and harassment of Plaintiff Doe 13 acted negligently, in that they failed to reasonably
perform their duties as a chaperone and failed to act as a reasonably prudent person. The
chaperones failed to raise any alarms during Dr. Heaps' misconduct or take any other
reasonably expected actions to prevent the harm inflicted on Plaintiff Doe 13, despite the fact
that (a) the purpose of the chaperones was to protect Plaintiff Doe 13 and ensure that she was
comfortable and safe during the gynecological visit; and (b) the chaperones were aware of the

1 lack of medical necessity of Dr. Heaps' touching and questioning of Plaintiff Doe 13. Further,
2 the chaperones did not report Dr. Heaps' misconduct. At the time they were in the
3 examination room and while she was silently witnessing Dr. Heaps' infliction of harm to
4 Plaintiff Doe 13, the female chaperones were acting in the course and scope of their
5 employment with UCLA.

6 162. As a result of the above-described conduct, Plaintiff Doe 13 suffered and
7 continues to suffer great pain of mind and body, shock, emotional distress, physical
8 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
9 humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was
10 prevented and will continue to be prevented from performing daily activities and obtaining the
11 full enjoyment of life; and has incurred and will continue to incur expenses for medical and
12 psychological treatment, therapy, and counseling.

TWELFTH CAUSE OF ACTION

(Gender Violence (Civil Code § 52.4) against all Defendants)

15 163. Plaintiff Doe 13 incorporates Paragraphs 1 through 162 as though fully set forth
16 herein.

17 164. California Civil Code § 52.4 provides that gender violence is a form of sexual
18 discrimination and includes a “physical intrusion or physical invasion of a sexual nature under
19 coercive conditions. . .” Cal. Civ. Code § 52.4(c)(2). For purposes of this section, “gender”
20 means “sex, and includes a person’s gender identity and gender expression.” Cal. Civ. Code
21 § 52.4(d); Cal. Civ. Code § 51. The provision further provides that any person subjected to
22 gender violence may bring a civil action for damages against any responsible party, and may
23 seek actual, compensatory, and punitive damages therefor, or any other appropriate relief.

24 165. Plaintiff Doe 13 is female.

25 166. Dr. Heaps intentionally and without consent physically intruded and/or invaded
26 Plaintiff’s body during medical examinations in a sexual manner in violation of Cal. Civ.
27 Code § 52.4. The conditions were coercive in that Plaintiff placed her trust and confidence in
28 Dr. Heaps as a physician and in the UC Regents as a premier provider of patient care (via

1 UCLA Health).

2 167. The UC Regents participated in the physical intrusion and/or invasion of
3 Plaintiff's body during a medical examination by either (a) the presence of chaperones or
4 other staff members during the medical examinations; and/or (b) UCLA staff members or
5 other personnel bringing Plaintiff into the examination room and directing her to remove her
6 clothing, knowing that Dr. Heaps would assault her in a sexual manner; and/or (c) providing
7 Dr. Heaps the facilities and location to assault Plaintiff in a sexual manner and touting him as
8 an expert in gynecological care.

9 168. As more fully set forth above, Plaintiff was injured as a result of the gender
10 violence, and seeks all remedies provided for in California Civil Code § 52.4, including but
11 not limited to, actual damages, compensatory damages, punitive damages, costs, and
12 attorney's fees.

THIRTEENTH CAUSE OF ACTION

(Unfair Business Practices (Business & Professions Code § 17200) against Defendant Heaps and Roes)

169. Plaintiff Doe 13 incorporates Paragraphs 1 through 168 as though fully set forth
herein.

170. Plaintiff is informed and believes, and on that basis alleges, that Defendant
Heaps has engaged in unlawful, unfair and/or deceptive business practices, including by
engaging in repeated sexual abuse and harassment of patients, including Plaintiff, and by
failing to take all reasonable steps to prevent such sexual abuse and harassment from
occurring. The unlawful, unfair and/or deceptive business practices also included failing to
adequately and promptly investigate, vet, and evaluate individuals for employment with
UCLA Health and the UC Regents, as well as refusing to design, implement, and oversee
appropriate policies regarding sexual harassment and abuse of patients in a reasonable manner,
as is customary in similar healthcare and student-active environments. Further, Plaintiff is
informed and believes, and on that basis alleges, that Defendants engaged in unlawful, unfair,
and/or deceptive business practices by concealing the aforementioned sexual harassment,

abuse, and/or molestation in order to retain other patients who were not apprised of such misconduct.

3 171. Plaintiff is informed and believes, and on that basis alleges, that Defendants
4 engaged in a common scheme, arrangement or plan to actively conceal allegations against
5 sexual abusers like Dr. Heaps who were employees, agents, members, and/or otherwise
6 affiliated with UCLA Health or the UC Regents so that Defendants could maintain their public
7 image, be insulated from public scrutiny and embarrassment, and otherwise avoid the
8 detection of such abuse and abusers, all in an effort to project a false sense of safety and
9 security for patients and students and benefit financially.

10 172. By engaging in the unlawful, unfair, and/or deceptive business practices
11 described above, Defendants benefitted financially to the detriment of competitors and the
12 public.

13 173. Unless restrained, Defendants will continue to engage in the unlawful, unfair,
14 and/or deceptive business practices described above, resulting in irreparable harm to Plaintiff
15 and the public.

16 174. Plaintiff seeks restitution of all amounts improperly obtained by Defendants
17 through the use of the above-described unlawful, unfair and/or deceptive business practices, as
18 well as disgorgement of any ill-gotten gains on behalf of Plaintiff and all others similarly
19 situated.

20 175. Pursuant to Section 17203 of the California Business & Professions Code and
21 available equitable powers of the Court, Plaintiff is entitled to and seeks an injunction
22 enjoining Defendants from continuing their unlawful, unfair, and/or deceptive business
23 practices. Further, Plaintiff is entitled to recover reasonable attorneys' fees pursuant to the
24 California Business & Professions Code and California Code of Civil Procedure § 1021.5.

FOURTEENTH CAUSE OF ACTION

(Constructive Fraud against all Defendants)

27 176. Plaintiff Doe 13 incorporates Paragraphs 1 through 175 as though fully set forth
28 herein.

1 177. By (a) holding Dr. Heaps out as an agent and trusted employee of UCLA Health,
2 (b) allowing and encouraging Dr. Heaps to undertake the medical care of vulnerable patients
3 such as Plaintiff; and (c) holding themselves out as a preeminent healthcare facility and
4 provider, Defendants entered into a confidential, fiduciary and special relationship with
5 Plaintiff.

6 178. Defendants breached their confidential, fiduciary and special duties to Plaintiff
7 by the wrongful and negligent conduct described above, and in doing so gained an advantage
8 over Plaintiff in matters relating to Plaintiff's safety, security, and health.

9 179. By virtue of their confidential, fiduciary, and special relationship with Plaintiff,
10 Defendants owed Plaintiff a duty to:

- 11 (a) promptly and thoroughly investigate claims of sexual abuse or
12 harassment committed by its employees, agents, or affiliates (such as Dr.
13 Heaps) and reveal any such negative findings to Plaintiff, the
14 community, the Medical Board, and law enforcement;
- 15 (b) refuse to place Dr. Heaps in a position of trust and authority within the
16 UC Regents' controlled and affiliated institutions and facilities;
- 17 (c) refuse to hold Dr. Heaps out to Plaintiff, other patients, students, and the
18 community at large as being a trustworthy physician in good standing, a
19 faculty member, and authority figure; and
- 20 (d) promptly disclose to Plaintiff, UCLA students, and the community at
21 large the reasons for his "retirement" in June 2018.

22 180. On information and belief, Defendants breached their respective duties by:

- 23 (a) failing to promptly and thoroughly investigate claims of sexual abuse or
24 harassment against Dr. Heaps;
- 25 (b) ignoring and failing to investigate Plaintiff Doe 13's own report of
26 concern about Dr. Heaps' conduct, thereby lulling Plaintiff Doe 13 into
27 the belief that Dr. Heaps was acting appropriately;
- 28 (c) failing to disclose to Plaintiff, UCLA students, and the community at

- large the reasons for Dr. Heaps' retirement in June 2018;
- (d) issuing no warnings about Dr. Heaps;
 - (e) permitting Dr. Heaps to routinely examine gynecological patients either entirely unsupervised or supervised by untrained chaperones who were derelict in their duty to report Dr. Heaps;
 - (f) failing to adopt policies that mandated the use of chaperones at all gynecological visits or properly training their chaperones;
 - (g) hiring at least one nurse/chaperone with a history of criminality and who, on information and belief, had alcohol and prescription drug addictions during the time in which she was rendering nurse and chaperone services to patients, including Plaintiff Doe 13;
 - (h) continuing to assign Dr. Heaps to duties which placed him in positions of trust and authority over other patients;
 - (i) continuing to impliedly represent that Dr. Heaps was safe and morally fit to give medical care and provide gynecological treatment; and
 - (j) continuing to promote Dr. Heaps as a faculty member and trusted physician on the UCLA School of Medicine website even after he had forcibly "retired."

181. Defendant made affirmative or implied representations and nondisclosures of material facts about Dr. Heaps and his suitability to provide gynecological care to patients, and knowingly and intentionally suppressed material facts about past allegations of misconduct against Dr. Heaps that the UC Regents knew or should have known about.

182. Given her need for medical treatment, and her trust and care in Defendants, Plaintiff was vulnerable to Defendants.

183. At the time Defendants engaged in such suppression and acts of concealment, such acts were done for the purpose of causing Plaintiff to forebear on her rights.

184. Defendants' conduct did reasonably cause Plaintiff to forebear on her rights, and Plaintiff justifiably relied upon Defendants for information about Dr. Heaps.

1 185. The misrepresentations, suppressions, and concealment of facts by Defendants
2 were intended to and were likely to mislead Plaintiff and others to believe that Defendants had
3 no knowledge of any misconduct by Dr. Heaps.

4 186. Defendants knew or should have known at the time they suppressed and/or
5 concealed the true facts about Dr. Heaps that the resulting impressions were misleading.

6 187. On information and belief, Defendants suppressed and concealed the true facts
7 regarding Dr. Heaps with the purpose of, among other things: (a) preventing Plaintiff and
8 others from learning that Dr. Heaps had and was continuing to sexually harass, molest, and
9 abuse patients, (b) inducing Plaintiff and other people to participate and financially support
10 Defendants' programs and enterprises; (c) preventing further reports and investigations of
11 Defendants' misconduct; (d) avoiding damage to Defendants' reputations; and (e) protecting
12 Defendants' power, status, and reputation in the community.

13 188. Defendants knowingly conspired and gave each other substantial assistance to
14 perpetuate the misrepresentations, fraud, and deceit alleged herein in order to allow Dr. Heaps
15 to remain in his position as a physician, faculty member, and doctor (or retire with a good
16 reputation) so that they could maintain their standing in the community.

17 189. Plaintiff was misled by Defendants' suppression and acts of concealment, and in
18 reliance thereon, was induced to act or not act as intended by Defendants. Specifically,
19 Plaintiff was induced to believe there were no allegations of prior misconduct against
20 Dr. Heaps and that he was safe to be around patients and students. Had Plaintiff known the
21 true facts about Dr. Heaps, she would not have seen him for gynecological or other medical
22 care, and she would have acted sooner in reporting him or pursuing her claims.

23 190. As a direct and proximate result of the UC Regents' actions and/or inactions,
24 Plaintiff has been damaged as more fully set forth above.

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WHEREFORE, Plaintiff Doe 13 prays for a jury trial and for judgment against Defendants as follows:

FOR ALL CAUSES OF ACTION

1. For compensatory damages, in an amount to be determined at trial;
 2. For costs of suit;
 3. For interest based on damages, as well as pre-judgment and post-judgment interest as allowed by law;
 4. For declaratory and injunctive relief, including but not limited to court supervision of the UC Regents;
 5. For attorneys' fees as provided by statute;
 6. For punitive damages as to Dr. Heaps;
 7. For restitution and disgorgement; and
 8. For such other and further relief as the Court may deem proper.

DATED: August 22, 2019

THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath

Jennifer J. McGrath

Attorney for Plaintiff JANE DOE 13

1
2 **DEMAND FOR TRIAL BY JURY**
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Plaintiff Jane Doe 13 hereby demands a trial by jury in this action.

DATED: August 22, 2019

THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath

Jennifer J. McGrath

Attorney for Plaintiff JANE DOE 13